

Notice of Allowability

Application No.

09/667,924

Examiner

Herng-der Day

Applicant(s)

SCHULTZ, PAUL

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendments received 12/15/05 and 1/5/06.
2. ☒ The allowed claim(s) is/are 2, 3, 5-8, 10-15, 17, and 19-20, now renumbered as 1-15.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 01182006.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

KAMINI SHAH

SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. This communication is in response to Applicant's Response to Office Action dated May 6, 2005, October 27, 2005, and November 18, 2005, mailed December 13, 2005, received by PTO December 15, 2005, and Applicant's Amendment faxed January 5, 2006.

1-1. Claims 2, 3, 5, 8, 10-15, 17, 19, and 20 have been amended. Claims 1, 4, 9, 16, and 18 have been cancelled. Claims 2, 3, 5-8, 10-15, 17, 19, and 20 are pending.

1-2. Claims 2, 3, 5-8, 10-15, 17, 19, and 20 have been examined and allowed.

Drawings

2. The replacement drawing sheets of FIGURE 2 and FIGURE 3B received on December 15, 2005, are acceptable. The objection to the drawings has been withdrawn.

Reasons for Allowance

3. The following is an Examiner's statement of reasons for allowance:

3-1. The closest prior art of record discloses:

(1) A software tool, "XCEED™", allows engineers to create textual, mathematical, and graphical descriptions of compressed air systems (Curtner et al., "Simulation-Based Features of the Compressed Air System Description Tool "XCEED™").

(2) A pressurized air system (Malecha, U.S. Patent 5,795,134);

(3) A system for air compressor control (Nishar et al., U.S. Patent 6,036,449);

(4) An electronic air charge controller (Knight, U.S. Patent 6,682,459 B1).

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3-2. Independent claim 5 is directed at a method of designing a vehicle air system and Independent claims 17 and 19 are directed at a method for predicting performance of a vehicle air system. These methods include steps of inputting vehicle use information, simulating the operation of the proposed vehicle air system over a time period, and calculating duty cycle or outputting data describing the simulated operation. The recited features are generally disclosed in the prior art of record. However, the prior art of record, while generally disclosing these features, does not meet the conditions as suggested in MPEP section 2131, namely:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsisimilis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this application, the prior art of record does not disclose the specific sequence of steps as disclosed within the context of independent claims 5, 17, and 19. Nor was a reference uncovered that would have provided a basis of evidence for asserting a motivation that one of ordinary skill in the art at the time the invention was made would have applied the vehicle use information and modified a compressed air system simulation tool to calculate duty cycle or output data describing the simulated operation of the proposed vehicle air system over a time period as recited in the context of the independent claims. In other words, the prior art does not

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expressly teach or render obvious the invention as recited in independent claims 5, 17, and 19.

Therefore, Independent claims 5, 17, and 19 have been allowed over the prior art of record.

Dependent claims 2-3, 6-8, 10-15, and 20 are allowable as they depend on the allowed independent claims.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Herng-der Day whose telephone number is (571) 272-3777. The Examiner can normally be reached on 9:00 - 17:30.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kamini S. Shah can be reached on (571) 272-2279. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Herng-der Day

January 18, 2006

H.D.


KAMINI SHAH
SUPERVISORY PATENT EXAMINER